



UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

Trespass Number: I-30961 (ID-020-6944)

TRESPASS INVESTIGATION REPORT
General

DATES

Reported: 10-17-94

Investigated: 10-18-94

This Report: 10-19-94

1. Unauthorized User (Name, Address-include zip code, and Phone No.):

Thomas F. Miller

~~2518 Vernaccia Circle~~ 2508 Zinfandel Dr.

Rancho Cordova, CA 95670

(916) 366-0957 (631-7143)

105 S. Wilson

Oakley, ID

862-3658 or 654-2286

2. Give location and area of unauthorized use. (Legal description, name or number of road, or reference to known locations):

T.16S., R.21E and 22E., Boise Meridian, Idaho; T.15N., R.22E,^{18W}
Salt Lake City, Utah- (Little Birch Creek road)

3. Describe unauthorized use:

Upgrading an existing two-track road without authorization

4. Sketch area of unauthorized use and show land status

see map, attached

5. Damages Claimed:

<u>Item</u>	<u>Values</u>
Administrative Costs	3x
Unauthorized Use Penalties	3x
Rehabilitation Costs	3x

6. Violation (Cite regulation, law, permit, or lease, etc.)

43 CFR 2801.3(a)- any use, occupancy, or development of the public lands that requires a right-of-way, temporary use permit, or other authorization pursuant to the regulations of that part and that has not been so authorized or that is beyond the scope and specific limitations of such an authorization, or that causes unnecessary or undue degradation, is prohibited and shall constitute a trespass.

TRESPASS INVESTIGATION REPORT
(continuation sheet)

Serial Number: I-30961

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7. Summary of Unauthorized Use:

On Monday, 10-17-1994, Ken Knowles, Snake River R.A. Haz Mat Specialist, told Karen Shilling SRRA Geologist that he'd been contacted by Mr. Bill Poulton, who reported that someone was constructing a 30 foot wide road along Little Birch Creek, using a D8 bulldozer. Shilling tried to call Mr. Poulton, who was not available at the time. The evening of 10-17-1994, Mr. Poulton called Shilling at her home. He said that the road, which had been a primitive, two-track road, was being widened to 30 to 40 feet, and that material was being pushed into the creek. He had been up there over the weekend and said that at that time the dozer was approximately $\frac{1}{2}$ to 1 mile above the Narrows section of the road. It was headed west, and working pretty quickly. He suspected that the work was being done by Mr. Tom Miller, who owns a mine (Vipont mine) on private land (patented) up the road approximately 6 miles in Utah.

On 10-18-1994, Shilling and Jim Hart, SRRA Law Enforcement ranger, went down to the site to investigate. They encountered the dozer widening the road approximately $1\frac{1}{2}$ miles east of the intersection with the Goose Creek road. The dozer operator, Mr. Albert T. Ange, said that he and his support person, Mark Tate, worked for High Country Construction out of Bellevue, Idaho. They were contracted by Tom Miller to upgrade the road. They started the work at the minesite, and were working their way down to approximately 1 mile east of the Goose Creek road, where Miller told them to stop. They had been working on the road for 2 weeks and 2 days.

When Hart asked them if they knew that they were on BLM lands, the dozer operator stated, "I asked Miller about that! He told me that it was all private land and not to worry about it." He also stated that, at first, they were trying to do as little disturbance as possible by not widening it any more than they had to. When Miller came up to see their work he told them that he wanted it wider and wanted curves straightened out and grades cut, so that big trucks could get up the road. Hart looked at their licenses, while Shilling took photographs.

Shilling and Hart drove up the road to investigate the damage further, documenting the damage by taking photographs, video-taping, and using a GPS device to determine locations and mileage. The road was disturbed all the way to the private property and beyond. It ranged in width from about 15 feet to 40 feet. A few willow trees had been clipped by the dozer, but Shilling could not see any places where debris actually reached the creek. Numerous spots had two to four foot cut banks. A total of 3.5 miles of road on Idaho BLM lands was disturbed, as well as 1.33 miles of Utah BLM, and 0.5 miles of State of Utah.

8. Names and Addresses of Parties Involved (if known):

Thomas F. Miller (see address above)

Albert T. Ange
HC 76, Box 4013
Garden Valley, ID 83622

Mark Tate
Address not available

9. Record of Facts:

Tom Miller has a history of performing surface disturbance activities using heavy equipment without prior authorization or notification (see attached, case history).

10. Attorney's Name and Address (if any):

Ken Sebyy

11. Recommendations:

Unauthorized use appears - civil in nature xx criminal in nature

 Close Case File

 Other (describe)

Because of Mr. Miller's history of unauthorized use as documented above, I recommend charging him with criminal trespass, since he willingly and knowingly performed this work without contacting our office. This is the third time that he has used heavy equipment without our knowledge, on public land. We've tried working with him so that he feels comfortable contacting our office, but he proceeds to fail to do so. Also this case involves disturbance in two states as well as State of Utah land. Should a right-of-way be issued eventually, a reclamation bond should be required for this work, as well as the work he's done on his unpatented claims. A fine should be at least the equivalent of triple damages, as it would be for a knowing and willful trespass.

12. Enclosures:

Map
Case History

Sam F. Shilling
Realty Specialist

10-19-94
Date

I concur with the above recommendation

Area Manager

Date